

Notice of Allowability

Application No.

09/703,277

Examiner

William L. Miller

Applicant(s)

PURVIS ET AL.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01-09-2006.
2. ☒ The allowed claim(s) is/are 1-13, 15-22, 26, and 28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Response to Reply

1. The consent of assignee and the statement under 37 CFR 3.73 (b) received on 12-05-2006 are proper.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The abstract has been amended as follows:

ABSTRACT OF THE DISCLOSURE

An improved temporary guard rail system for use by residential and commercial builders on construction sites in those areas of building structures where an accidental fall may result in serious bodily injury. In particular, the temporary guard rail system of the present invention includes a plurality of upright stanchions having mounting brackets integrally formed or attached thereto that are connected by a plurality of vertically spaced, generally horizontal side rails extending end to end. The vertically spaced side rails are adapted for 360 degree rotational movement in both horizontal and vertical planes. In addition, the tubular guard rails are fabricated in a plurality of sections that may be slideably engaged, one inside another, to provide a telescoping adjustment of length. The temporary guard rail system may be adapted and secured to various features of a building such as balconies, elevated platforms, stair cases, and the perimeter of a floor prior to the external walls or permanent protective railings being erected to prevent accidental injury. Further, the temporary guard rail system is designed and manufactured to conform to OSHA requirements for temporary guard rails. This system also provides a versatile safety device which is easy to install, easy to dismantle, and relatively inexpensive to manufacture.

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3. It is noted a correction of inventorship was done by adding an inventor. By providing a declaration including a "no deceptive intent" statement and signed by all three inventors, along with a consent by the assignee, all relevant parties have met the requirements of 37 CFR 1.324. The Rule 47 petition of September 14, 2001 is deemed to be moot in view of the inventor in question subsequently joining the case by signing the declaration. The Rule 48 decision of January 29, 2002 has been vacated as this improperly treated the above Rule 47 petition, and because Rule 48 petitions are limited to non-reissue applications. The third inventor, Tony Matthews, has been properly added to this reissue application.

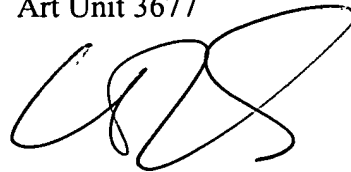
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William L. Miller
Primary Examiner
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A handwritten signature in black ink, consisting of a large, stylized 'W' followed by a large, stylized 'M'.

WLM